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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/587,400	05/25/2007	Igor A. Lepeshinsky	056269-0022	7174
20279 7590 02/27/2009 MCDERMOTT WILL & EMERY LLP 600 13TH STREET, N.W. WASHINGTON, DC 20005-3096				
EXAMINER				
BOECKMANN, JASON J				
ART UNIT		PAPER NUMBER		
3752				
MAIL DATE		DELIVERY MODE		
02/27/2009		PAPER		

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

### Office Action Summary

**Application No.**

10/587,400

**Applicant(s)**

LEPESHINSKY, IGOR A.

**Examiner**

Jason J. Boeckmann

**Art Unit**

3752

**Period for Reply** -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 25 May 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-8 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-8 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 27 July 2006 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-893)
- Paper No(s)/Mail Date 7/27/2006

- 4) ☐ Interview Summary (PTO-413)
- Paper No(s)/Mail Date \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

## **DETAILED ACTION**

### ***Information Disclosure Statement***

The information disclosure statement filed 7/27/2006 fails to comply with 37 CFR 1.98(a)(2), which requires a legible copy of each cited foreign patent document; each non-patent literature publication or that portion which caused it to be listed; and all other information or that portion which caused it to be listed. It has been placed in the application file, but the information referred to therein has not been considered.

### ***Claim Objections***

Claims 4-8 are objected to under 37 CFR 1.75(c) as being in improper form because a multiple dependent claim should refer to other claims in the alternative only, and cannot depend from another multiple dependent claim. See MPEP § 608.01(n). Accordingly, the claims have not been further treated on the merits.

### ***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 1-3 are rejected as failing to define the invention in the manner required by 35 U.S.C. 112, second paragraph.

The claim(s) are narrative in form and replete with indefinite and functional or operational language. The structure which goes to make up the device must be clearly

and positively specified. The structure must be organized and correlated in such a manner as to present a complete operative device. The claim(s) must be in one sentence form only. Note the format of the claims in the patent(s) cited.

Claims 1-3 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

The claims are generally narrative and indefinite, failing to conform with current U.S. practice. They appear to be a literal translation into English from a foreign document and are replete with grammatical and idiomatic errors. The claims are replete with errors too numerous to mention specifically. The following noted informalities are merely exemplary thereof.

- In claim 1, line 1; it is unclear what the term, "including basis" means. It appears that the basis is element 1 in the specification, but it is not clear what a basis is. Is it a support, a brace, or a base? Does the applicant intend to say: "including a basis"?
- In claim 1, line 3; it is not clear what is meant by the term "to them". Is the term "them" referring to the basis, the capacity for extinguishing liquid, the capacity for air, all three, or some other component?
- In claim 1, lines 4 and 5, it is unclear what is meant by the term "through corresponding mains device for forming two phase extinguishing jet."
- Claim 1 recites the limitation "the jet forming barrel" in line 5. There is insufficient antecedent basis for this limitation in the claim.

- Regarding claim 1, it is unclear what is meant by the term: "placed in mains liquid and air supply valves control lever." Is the control lever the supply valve, or is it connected to the supply valve. There is no antecedent basis for the term "supply valve." Additionally, is the supply valve and control lever in the mains, or not?
- Regarding claim 1, it is not clear what is meant by the term "and the system of filling extinguishing liquid differing because." First off, there is not antecedent basis for the term "the system of filling extinguishing liquid." Secondly, how is the system differing? What is it differing from? Is the applicant admitting that everything above the word differing is prior art?
- Regarding claim 2; is the "mains" of line 3, the same "mains" of claim 1, or a different mains?
- Regarding claim 3; is the "mains" of line 3, the same "mains" of claim 1, claim 2, or a different mains?
- Regarding claim 3, the phrase "for example" renders the claim indefinite because it is unclear whether the limitation(s) following the phrase are part of the claimed invention. See MPEP § 2173.05(d).

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-3 are rejected, as best understood, under 35 U.S.C. 103(a) as being unpatentable over Dorkin et al. (6,478,240) in view of Herrick et al. (6,276,459).

Dorkin et al. shows a fire extinguishing unit, including a basis (a back pack or a car column 4, lies 14-17), fixed on it capacity for extinguishing liquid (16) and connected to the capacity through a control block (20), a capacity for air (15), through corresponding mains (10 and 17) a device for forming two phase extinguishing jet (1) consisting of the jet forming barrel and placed in mains liquid and air supply valves (19) a control lever (22) and the system of filling extinguishing liquid, but does not specifically disclose that the extinguishing unit is supplied with device for generating foam.

However, Herrick et al. shows a fire extinguishing device that includes a device for generating foam (36, 34, 32).

Therefore, it would have been obvious to one of ordinary skill in the art at the time of the applicant's invention to add the device for generating foam of Herrick et al.'s invention to the device of Dorkin et al., in order to make the device of Dorkin et al. generate foam, as taught by Herrick et al.

Regarding claim 2, Dorkin et al. as modified by Herrick et al. does not specifically disclose that the water capacity is made of at least two cylinders connected to each other by a pipe.

However, it would have been obvious to one of ordinary skill in the art at the time of the applicant's invention to add a second water storage capacity to the device of

Dorkin et al. as modified by Herrick et al., since it has been held that a mere duplication of the essential working parts of a device involves only routine skill in the art. Additionally, an added water tank would allow the device to spray for a longer period of time.

Regarding claim 3, element 32 is a valve.

### ***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Steingass et al. (6,113,004), Brunicke (4,531,588), Roessler (3,721,299), Smagac (5,623,995) and Hanratty (US 2004/0123991) all show devices with similar features to that of the present invention.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jason J. Boeckmann whose telephone number is (571)272-2708. The examiner can normally be reached on 8:00- 5:00, Monday through Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Len Tran can be reached on (571) 272-1184. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/J. J. B./  
Examiner, Art Unit 3752  
2/24/2009

/Len Tran/  
Supervisory Patent Examiner, Art Unit 3752